

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
V.)	CR. No.: 1:06cr269-MHT
)	
BRIAN STANYARD)	

UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the Defendant, Brian Stanyard, by and through undersigned counsel, Kevin L. Butler, and pursuant to 18 U.S.C. §§ 3161 (h)(1)(F), (h)(3)(A)(B), (h)(8)(B)(I), and (h)(8)(B)(iv) moves to continue his presently scheduled trial date of February 5, 2007. In support of this motion, Defendant would show the following:

1. Mr. Stanyard is charged in this Court with possession of narcotics.
2. On December 13, 2006, Mr. Stanyard moved to suppress the evidence seized in this case. A hearing has not yet been set in this matter.
3. The seizure was based in large part upon police investigation of an unidentified white male. Undersigned counsel is in the process of trying to identify and locate this person and conduct any necessary investigation. This investigation cannot be completed prior to the presently scheduled trial date of February 5, 2007.
4. Requests for a continuance are addressed to the sound discretion of the trial court. United States v. Darby, 744 F.2d 1508, 1521 (11th Cir. 1984). Pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), the Court can consider the adequacy of preparation time when deciding whether to grant a motion to continue. A continuance in order to allow defense counsel "the reasonable time necessary for effective preparation" for trial is one of the factors considered

significant by the Speedy Trial Act . United States v. Davenport, 935 F.2d 1223, 1235 (11th Cir. 1991); 18 U. S.C. § 3161 (h)(8)(B)(iv). The Eleventh Circuit has repeatedly recognized that a continuance in order to provide adequate preparation by counsel serves the ends of justice. See, e.g., United States v. Goetz, 826 F.2d 1025, 1028 (11th Cir. 1987) (upholding, against speedy trial claim, a continuance of eighty days to allow new counsel to prepare for trial).

5. The United States, through Assistant United States Attorney, Clark Morris, does not oppose the requested continuance.

WHEREFORE, for the foregoing reasons, Mr. Stanyard respectfully requests that his trial date be continued from the presently scheduled date of February 5, 2007.

Dated this 10th day of January 2007.

Respectfully submitted,

s/ Kevin L. Butler
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CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Clark Morris, Esquire
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, Alabama 36104

Respectfully submitted,

s/ Kevin L. Butler
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